

# IN THE MICHIGAN COURT OF APPEALS

## ORDER

Re: **People of MI v Michael Antonie Bolden**

Docket No. **288396**

L.C. No. **08-000417-01-FH**

Brian K. Zahra, Judge, acting under MCR 7.211(E)(2), orders:

The prosecutor's confession of error is accepted and defendant's conviction and sentence are REVERSED. The trial court erred in denying defendant's motion to suppress the gun evidence. The parking lot of a gas station is not a street or highway as defined in the seatbelt statute, MCL 257.20 and MCL 257.710e(3). The police officer made a mistake of law when he determined that the driver had violated the seatbelt statute. A stop based on a mistake of law is not objectively reasonable. See *United States v Washington*, 455 F3d 824, 827, n 1 (CA8, 2006) and cases cited therein. Therefore, the police lacked probable cause to stop the vehicle. As there was nothing to indicate that the officer would have observed the gun but for the stop, the inevitable-discovery exception to the exclusionary rules does not apply. *People v Stevens*, 460 Mich 626, 637; 597 NW2d 53 (1999), citing *Nix v Williams*, 467 US 441, 444; 104 S Ct 2501; 81 L Ed 2d 377 (1984). The matter is REVERSED and REMANDED for a new trial.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 25 2009

Date

*Sandra Schultz Mengel*  
Chief Clerk